

**LEWIS
AND
ROCA**
LLP
LAWYERS

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Facsimile (702) 949-8321
Telephone (702) 949-8320

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Susan M. Freeman AZ State Bar No. 004199
Email: sfreeman@lrlaw.com
Rob Charles NV State Bar No. 006593
Email: rcharles@lrlaw.com
John C. Hinderaker AZ State Bar No. 18024
Email: jhinderaker@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA Commercial Mortgage Company,
USA Capital Realty Advisors, LLC,¹
USA Capital Diversified Trust Deed Fund,
LLC,
USA Capital First Trust Deed Fund, LLC,²
USA Securities, LLC,³
Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**STATUS AND AGENDA FOR
DECEMBER 16, 2008 HEARINGS**

Hearing Date: December 16, 2008
Hearing Time: 9:30 a.m.
10:30 a.m.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☒ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Agenda for 9:30 a.m.

1. **Amended Complaint:** 06-01212-lbr, Binford Medical Developers, LLC et al v. Compass Financial Partners LLC et al

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 26, 2007.

Amended Complaint Filed: Amended Complaint Filed by SUSAN WILLIAMS SCANN on behalf of BINFORD MEDICAL DEVELOPERS, LLC against COMPASS FINANCIAL PARTNERS LLC [DE 80]
9/12/07

Answer Filed: Answer to Amended Complaint [DE 89]
10/05/07

Counterclaim Filed: Counterclaim by COMPASS FINANCIAL PARTNERS LLC against BINFORD MEDICAL DEVELOPERS, LLC [DE 91]
10/05/2007

4/11/2008 Stipulation and Order Dismissing FIDELITY NATIONAL TITLE COMPANY with Prejudice [DE 123]

Status Continued from 12/14/07, 1/11/08, 2/4/08, 2/14/08, 4/17/08, and 5/8/08.

2. **Objection to Claim 784 of BINFORD MEDICAL DEVELOPERS:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter: 11

Objection filed: Objection to Claim 784 of BINFORD MEDICAL DEVELOPERS in the amount of filed by LENARD E. SCHWARTZER on behalf of USA COMMERCIAL MORTGAGE COMPANY [DE 2033]
12/11/2006

Status Awaiting resolution of settlement with Compass Financial Partners

3. **Motion to Release Funds from Court Registry and Turnover to Rightful Owners:** 06-01146-lbr, USA Commercial Mortgage Company v. Wells Fargo Bank, N.A. et al

Motion Filed: Motion to Release Funds from Court Registry and Turnover to Rightful Owners Filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 166]
10/28/08

Status No objections filed. Counsel will request entry of the order.

4. **Motion to Release Funds from Court Registry and Certificate of Service:** 06-01146-lbr, USA Commercial Mortgage Company v. Wells Fargo Bank, N.A. et al

1 **Motion Filed:** Motion to Release Funds from Court Registry *and Certificate of*
2 11/12/08 *Service* Filed by JOHN HINDERAKER on behalf of USACM
LIQUIDATING TRUST [DE 169]

3 **Declaration Filed:** Declaration Of: John Hinderaker *in Support of Motion for Release*
4 11/12/08 *of \$100,000 Held in Court Registry* Filed by JOHN
HINDERAKER on behalf of USACM LIQUIDATING TRUST
5 [DE 170]

6 **Status** No objections filed. Counsel for USACM Trust has been
7 contacted by attorneys for Compass Partners, LLC and Silar
8 Advisors LP. Compass and Silar may appear through counsel to
make claim to the \$100,000 or either may request a continuance.

9
10 5. **Order to Show Cause:** 07-01105-lbr, Compass USA SPE LLC et al v.
USA Capital Diversified Trust Deed Fund, LLC et al, [DE 23]

11 **Complaint Filed:** Complaint *For Conditional Revocation of Confirmation Order*
12 07/07/07 *Under 11 U.S.C. Sec. 1144 and Rescission of Asset Purchase*
13 *Agreement* Filed by COMPASS USA SPE LLC, COMPASS
FINANCIAL PARTNERS LLC, et al. [DE 1]

14 **Motion Filed:** Motion to Dismiss Adversary Proceeding *Pursuant to Federal*
15 07/27/07 *Rule of Civil Procedure 12(b)(6)* Filed by SHLOMO S.
SHERMAN on behalf of OFFICIAL COMMITTEE OF EQUITY
16 SECURITY HOLDERS OF USA CAPITAL FIRST TRUST
17 DEED FUND, LLC, the Authorized Representative of USA
CAPITAL FIRST TRUST DEED FUND, LLC [DE 7]

18 **Order Filed:** Order to Show Cause why this adversary should not be dismissed
19 11/24/08 for failure to serve the defendants within 120 days of the filing of
the complaint [DE 23]

20 **Status** The following defendants have been dismissed: USA Commercial
21 Mortgage Co.; USA Securities, LLC; USA Capital Realty
22 Advisors, LLC; and USA Capital First Trust Deed Fund, LLC.
23 USA Capital Diversified Trust Deed Fund, LLC has not been
24 served. The individual defendants have not been served. No
25 response was filed to the Order to Show Cause.
26

Agenda for 10:30 a.m.

1. **Scheduling Conference:** Adv. 08-01119-lbr, USACM Liquidating Trust v. RUSSELL et al

Complaint Filed: Adversary case 08-01119. Complaint *USACM LIQUIDATING TRUST'S ORIGINAL COMPLAINT, CLAIM OBJECTIONS, AND COUNTERCLAIMS*
4/11/08

Answer Filed: Answer to Complaint *Defendants' Answers to USACM Liquidating Trust's Original Complaint, Claim Objections, and Counterclaims with Certificate of Service* (Related Doc # [1](#)) Filed by SUSAN WILLIAMS SCANN on behalf of BG/93 INVESTMENTS, LLC, BOISE/GOWEN 93, LLC et al. [DE 38]

Joint Discovery Plan Filed: *Joint Discovery Plan* Filed by ERIC D. MADDEN on behalf of USACM LIQUIDATING TRUST [DE 39]
8/11/08

Order Filed: Order Re Scheduling Conference. Scheduling Conference scheduled for 12/16/2008 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 41]
9/10/08

Status Continued from 8/26/2008. Counsel is ready to proceed with the scheduling conference.

2. **Order Setting Status Hearing:** Adv. 06-01256-lbr, USA Commercial Mortgage Company et al v. Reale et al

Complaint Filed: Complaint *Under 11 U.S.C. Sections 544, 548, 550 and NRS 112.180* Filed by USA COMMERCIAL MORTGAGE COMPANY, USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC vs. HMA SALES, LLC, SALVATORE REALE [DE 1]
12/25/06

Order Filed: Order Setting Status Hearing. [DE 405]
11/17/08

Status

1 3. **Scheduling Conference:** Adv. 08-01120-lbr, USACM Liquidating Trust v.
2 Gentile De Palma Ltd. et al

3 **Complaint Filed:** Complaint *To Avoid And Recover Pre-Petition Transfers* Filed by
4 4/11/08 USACM LIQUIDATING TRUST vs. GENTILE DE PALMA
 LTD. [DE 1]

5 **Order Filed:** Order Re Scheduling Conference. Scheduling Conference
6 11/20/08 scheduled for 12/16/2008 at 10:30 AM at LBR-Courtroom 1,
 Foley Federal Bldg. [DE 14]

7 **Status** Defendant has not filed an answer; USACM Trust will move to
8 default

9 5. **Order Setting Prove-Up Hearing:** Adv. 08-01130-lbr, USACM
10 Liquidating Trust v. Phillips USA LLC

11 **Complaint Filed:** Complaint Filed by USACM LIQUIDATING TRUST vs.
12 04/11/08 PHILLIPS USA LLC [DE 1]

13 **Order Filed:** Order Setting Prove-Up Hearing. Hearing scheduled 12/16/2008
14 11/20/08 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 17]

15 **Status** Counsel is ready to proceed. Geoff Berman will offer direct
16 testimony via proffer and will be available in the Courtroom for
 any cross examination.

17 Dated December 12, 2008.

18 **LEWIS AND ROCA LLP**

19 By: /s/ RC (#6593)
20 Susan M. Freeman, AZ 4199 (*pro hac vice*)
 Rob Charles, NV 6593
21 John Hinderaker, AZ 18024 (*pro hac vice*)
22 Counsel for USACM Liquidating Trust
23
24
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26

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PROOF OF SERVICE

COPY of the aforementioned sent via e-mail or U.S. First Class Mail on December 12, 2008 to the parties listed on Post-Effective Official Service List for Limited Notice No. 4 Dated January 8, 2008.

/s/ Carrie Lawrence

Carrie Lawrence

Lewis and Roca LLP